

From: Sharpe, Carolyn **On Behalf Of** Public Health Licensing
Sent: Monday, April 03, 2017 4:20 PM
To: Regen, Licensing
Cc: Public Health Licensing
Subject: RE: Consultation BEST FOOD AND WINE 171 Queens Road

To whom it may concern:

Re: Best Food and Wine 171 Queens Road, London SE15 2ND

This representation is made in respect of the following licensing objective(s):

- The prevention of crime and disorder
- Prevention of public nuisance
- Public safety

On behalf of the Director of Health and Wellbeing (incorporating the role of Director of Public Health) for Southwark (a responsible authority under the Licensing Act 2003) I wish to express my concerns over the alleged issues with the management of the above premises. These include; duty evaded alcohol offered for sale, duty evaded alcohol bearing counterfeit trade marks and offer to supply alcohol that cannot be legally sold. The sale of counterfeit alcohol is a public health concern. Since the products may not be genuine their contents can potentially be very harmful.

Public health fully supports this licence is reviewed by the Licensing Sub-Committee.

If you have any further questions, please do not hesitate to contact me.

Yours faithfully,

Carolyn Sharpe
on behalf of Professor Kevin Fenton, Director of Health and Wellbeing (incorporating the role of Director of Public Health)



The Licensing Unit
Floor 3
160 Tooley Street
London
SE1 2QH

Metropolitan Police Service
Licensing Office
Southwark Police Station,
323 Borough High Street,
LONDON,
SE1 1JL

Tel: 020 7232 6756
Email: SouthwarkLicensing@met.police.uk

Our MD/21/2936 /17
reference:

Date: 4th April 2017.

Re:- Best Food & Wine 171 Queens Road SE15 2ND

Dear Sir/Madam

Police are in possession of an application from the Southwark's Trading Standards Service for a review of the above premises licence under Section 51 of the licensing act 2003.

Police have the following comments to make:

The application details a number of incidents that give me cause for concern in relation to the premises and their dedication to promoting the licensing objectives.

It is alleged that the premises have been offering Duty Evaded alcohol for sale contrary to Customs & Excise management Act 1979.

Duty evade alcohol bearing counterfeit trade marks and " Duty Stamp Trade Marks Act 1994 and Duty Stamp Regulations 2006

Offering to to supply alcohol that cannot be legally sold –contrary to the consumer protection from unfair trading regulations 2008.

These are all considered as acts of criminality which are being committed by an individual in whom we have trusted to operate a licensed premises in Southwark, and one that we would expect to be promoting the prevention of crime and disorder licensing objectives.

Police fully support the application for review and would also recommend that the consideration is given to the revocation of the premises licence. The premises have already had ample opportunity to make good the issues identified through the stepped approach. I would have difficulty in believing any additional conditions would be adhered to.

Yours Sincerely

PC Ian Clements 362 MD
Southwark Police Licensing Unit

MEMO: Licensing Unit

To Licensing **Date** 04 April 2017

Copies

From David Franklin **Telephone** 020 7525 5800

Email david.franklin@southwark.gov.uk

Subject Best Food & Wine 171 Queens Rd SE15 2ND

I make this representation with regards to the review application of the premises licence submitted by the Trading Standards for Best Food & Wine 171 Queens Rd SE15 2ND.

My representation is based on the licensing objective for the prevention of crime and disorder and prevention of public nuisance.

The premises licence has been previously reviewed by the Licensing Sub Committee on 29 June 2011 by application from the Trading Standards where the premises had failed an underage sales test cigarettes, failed a second underage sales test cigarettes and alcohol and officers found and seized 41 bottles of counterfeit wine being offered for sale. I attached a copy of the notice of decision dated 29 June 2011.

An inspection of the premises by a licensing officer on 28 March 2013 found three breaches of the premises licence and potential offences under section 136 of the Licensing Act 2003 as follows:

1. 8AB - Staff training records with regards the 'Challenge 25' age identification policy established at the premises where not available for inspection.
2. 81A - A register of refused sales with regards to the age identification policy established at the premises could not be produced.
3. 836 - A personal Licence holder was not on the premises when licensable activities were being undertaken.

A fourth potential offence of section 57 the licensing Act 2003 was also witnessed as follows:

4. The Premises Licence (or certified copy) was not available at the premises.

As a result a warning letter was sent to Mr Sawinder Singh and Mr Naresh Kumar and I submit a copy of the warning letter dated 31 March 2013.

Mr Sawinder Singh and Mr Naresh Kumar have been joint premises licence holders since 2005 and Mr Naresh Kumar has been the DPS.

The latest findings by the Trading Standards of;

- Duty evaded alcohol offered for sale – Customs and Excise Management Act 1979

- Duty evaded alcohol bearing counterfeit trade marks and “Duty stamp” – Trade Marks Act 1994 and Duty Stamp Regulations 2006
- Offer to supply alcohol that cannot be legally sold – Consumer Protection from Unfair Trading Regulations 2008

Seem to show a continued pattern over the years of disregard for legislation created to control the sale of alcohol and I am therefore of the opinion that both Mr Sawinder Singh and Mr Naresh Kumar are not capable of running a licensed premises, additionally while the premises are owned by Mr Sawinder Singh and Mr Naresh Kumar and they play a significant part in the running of the premises and are the controlling factors and I would have not doubt that changing the DPS will not resolve this these issues.

I therefore support the Trading Standards review and their request for revocation of the premises licence as the reasonable, appropriate and proportionate action to take.

David Franklin
Licensing Authority as a Responsible Authority



NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 29 JUNE 2011

LICENSING ACT 2003 – BEST FOOD & WINE, 171 QUEENS ROAD, LONDON SE15 2ND

1. The council's licensing sub-committee, having had regard to the application by Trading Standards for a review of the premises licence granted under the Licensing Act 2003 in respect of the premises known as Best Food & Wine, situated at 171 Queens Road, London SE15 2ND and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

Modify the licence as follows:

Add the 4 additional conditions proposed by Trading Standards in their submissions which are listed below and also to add one further condition (see 5th bullet point below):

- The premises shall operate an age-check 'Challenge 25' policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of proof of age to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Southwark Proof of Age (SPA) card;
- All staff involved in the sale of alcohol shall be trained in the age-check 'Challenge 25' policy. A record of their training, including the dates that each member of staff is trained, shall be available for inspection on request by the council's authorised officers or the Police;
- Age-check or 'Challenge 25' signage shall be displayed at entrances to the premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an age-check 'Challenge 25' policy applies and proof of age may be required;
- A register of refused alcohol and cigarettes sales, which is clearly marked with the details of the premises, address and name of licence holder, shall be maintained in order to demonstrate effective operation of the policy. The register shall be available for inspection at the premises on request by the council's authorised officers or the Police.
- A personal licence holder shall be present on the premises at all times when licensable activities are undertaken.

2. **Reasons**

The sub-committee heard evidence from trading standards that on 1 occasion sale of cigarettes were made to a minor and on another occasion sale of cigarettes and alcohol were made to a minor. The sub-committee further heard evidence that when the premises were visited by trading standards following the sale in February that 41 counterfeit bottles of wine were found at the premises. Trading standards submitted that the investigation in respect of the counterfeit wine was still ongoing with Mr Kumar's cooperation and that trading standards at this stage could not say with certainty that Mr Kumar knew that the wine was counterfeit. The Sub-Committee further heard from trading standards that 4 conditions should be added to the licence as per page 41 of the agenda.

The sub-committee found this conduct of selling age restricted products to a minor to be unacceptable and in clear breach of the protection of children from harm objective in the Licensing Act 2003 and view such breaches very seriously.

The sub-committee heard from the licensee that he accepted there was a failure on his part and the part of management which resulted in breaches of the licensing objective. The sub-committee also heard evidence from the licensee that he bought the counterfeit wine in good faith from suppliers and was not aware that the wine was counterfeit.

In the circumstances the sub-committee found it is necessary and proportionate to add to the license the 4 conditions proposed by trading standards (referred to above) and necessary to amend the proposed condition 4 to read "a Register of refused alcohol and cigarettes sales, which is clearly marked with the details of the premises, address and name of licence holder, shall be maintained in order to demonstrate effective operation of the policy. The register shall be available for inspection at the premises on request by Council's authorised officers or the police."

The sub-committee also found it necessary to add a further condition whereby " A personal licence holder shall be present on the premises at all times when licensable activities are undertaken."

3. **Appeal Rights**

This decision is open to appeal by either

- a) The applicant for the review;
- b) The premises licence holder; or
- c) Any other person who made relevant representations in relation to the application

Such appeal must be commenced by notice of appeal given by the appellant to the justices chief executive for the magistrates court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

Issued by the Constitutional Team on behalf of the Strategic Director of Communities, Law & Governance.

Date: 30 June 2011

Mr Sawinder Singh &
Mr Naresh Kumar
BEST FOOD AND WINE
171 Queens Road
London
SE15 2ND

Licensing Unit
Direct Line: 0207525 0396
Direct Fax: 020 7525 5705

31 March 2013

Dear Mr Singh & Mr Kumar

**RE: THE LICENSING ACT 2003 – WARNING LETTER
(BEST FOOD AND WINE, 171 Queens Road, London, SE15 2ND)**

On 28 March 2013 at 18:53 hours a Licensing Enforcement Officer carried out an inspection to determine whether the licensable activities at the above premises were carried out in accordance with your authorisation.

In addition to the above, the Officer also considered 'risk assessment' criteria that would help determine the frequency of future inspections to your premises.

During the inspection the officers witnessed the following:

1. The Premises Licence (or certified copy) was not available at the premises.
Breach of Section 57(3) of the Licensing Act 2003.

If you have lost or damaged your Premises Licence you can order a new one by writing to the Licensing Unit at the address given below, and including a cheque (made payable to the London Borough of Southwark) or postal order for £10.50.

If you have your Premises Licence (or certified copy) please ensure that it is kept at the premises to be made available to authorised officers should they request to see it.

2. Staff training records with regards the 'Challenge 25' age identification policy established at the premises where not available for inspection. **This is in breach of condition 8AB on the premises licence.**
3. A register of refused sales with regards to the age identification policy established at the premises could not be produced. **This is in breach of condition 81A on the premise licence.**

4. A personal Licence holder was not on the premises when licensable activities were being undertaken. **This is in breach of condition 836 on the premises licence.**

Each of the matters listed above potentially constitutes a breach of the licence issued by the Council under the Licensing Act 2003.

You must ensure that licensable activities and hours of operation are in accordance with those listed on your premises licence. You must also ensure that the conditions attached to your licence are adhered to. A further visit will be made to check on these matters.

If compliance is not achieved the Council may take formal action that may affect your license or lead to a prosecution. A person found guilty of an offence under the above section is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £20,000.

I hope this warning will ensure that compliance is achieved and no further action will be required.

It was also noted that a Fire Risk Assessment had not been devised in regards to the premises. In accordance with the **Regulatory Reform (Fire Safety) Order 2005** a Fire Risk Assessment is required in respect of the premises. Please find enclosed a booklet which gives guidance on how to undertake a Fire Risk Assessment.

Whilst it is not an offence under the Licensing Act 2003 not to have a Fire Risk Assessment, it is an offence under the Regulatory Reform (Fire Order) 2005. Please submit a Fire Risk Assessment to this office within 14 days.

If I do not receive a copy of the assessment within fourteen days from the date of this letter I will be notifying the Fire Brigade of this offence

Thank you in anticipation of your co-operation. Should you wish to discuss this matter with a Licensing Enforcement Officer Please contact us by email at licensing@southwark.gov.uk or by telephone on 020 7525 0396 between the hours of 9.00 and 17.00, Monday to Friday. Alternatively you can write or visit us at the above address.

Yours sincerely,

Jayne Tear
Principal Licensing Officer
licensing@southwark.gov.uk

ENC: Age ID Training pack, refusal log, signage & Fire Risk Assessment advice booklet

Licensing Unit – Environmental Health & Trading Standards, Hub 2, Floor 3, 160 Tooley Street, London, SE1 2QH **Switchboard** - 020 7525 5000 **Website** - www.southwark.gov.uk
Strategic Director Environment & Housing - Deborah Collins
Register to vote. Complete the forms delivered to your home. Information: 020 7525 7373